



STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
CRISSAUNDRA L. MOTTLEY,)	
)	
Complainant,)	
)	
and)	CHARGE NO: 2000SF0294
)	EEOC NO: 21BA00486
STATE OF ILLINOIS,)	ALS NO: S-11341
SECRETARY OF STATE,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter comes to me on two motions by Respondent, State of Illinois, Secretary of State, to dismiss this action due to Complainant's repeated failure to respond to outstanding discovery requests. Complainant has not filed a response to either motion, although the time for filing a response has expired.

Contentions of the Parties

In its motions to dismiss, Respondent contends that dismissal of this case is warranted because Complainant has failed to comply with Commission orders directing her to serve responses to outstanding discovery requests. Respondent further maintains that Complainant's failure to abide by Commission orders has unreasonably delayed these proceedings.

Findings of Fact

Based upon the record in this matter, I make the following findings of fact:

1. On December 1, 1999, Complainant filed a Charge of Discrimination alleging that she was the victim of both race discrimination with respect to the issuance

of a written warning and increased scrutiny by her supervisor, as well as sexual harassment by a co-worker.

2. On August 9, 2000, the Department filed a Complaint on behalf of Complainant, alleging that Respondent sexually harassed Complainant by failing to take corrective action responsive to Complainant's complaints of sexual harassment by her co-worker.

3. On December 26, 2000, Respondent filed its initial Interrogatories and Requests to Produce on Complainant. Complainant did not serve any responses to these Interrogatories within the time frame for doing so.

4. After Complainant failed to respond to a letter from Respondent's counsel seeking compliance with the outstanding discovery requests, Respondent filed a motion to compel on March 16, 2001. The motion was granted on April 6, 2001, and Complainant was directed to respond to all outstanding discovery requests by April 27, 2001.

5. On May 4, 2001, Respondent filed a motion to dismiss based on Complainant's failure to respond to discovery requests as directed by the April 6, 2001 Order.

6. On May 23, 2001, an Order was entered which denied the motion to dismiss, but cautioned Complainant that she risked the entry of an order recommending that the matter be dismissed should she continue to fail to serve Respondent with sworn responses to all outstanding discovery requests at issue in the April 6, 2001 Order.

7. On May 30, 2001, an Order was entered which granted Complainant's oral motion for an extension of time to June 29, 2001 in which to serve sworn responses to all outstanding discovery requests. Complainant has not complied with this Order as of the date of this Order.

8. On June 20, 2001, an Order was entered which granted the motion by the Department of Human Rights to amend the Complaint to include a separate count of race discrimination that had been initially dismissed pursuant to a lack of substantial evidence, but reinstated after Complainant had filed a Request for Review.

9. On October 26, 2001, Respondent served Complainant with Interrogatories and Requests to Produce in relation to Count II of the amended Complaint.

10. When Complainant failed to serve sworn responses to the discovery requests relevant to Count II, Respondent filed a motion to compel. Complainant did not file a response to this motion, and Complainant was directed on January 4, 2002 to serve sworn responses to all outstanding discovery requests with respect to Count II of this case by January 25, 2002. The January 4, 2002 Order further provided that Complainant risked the entry of a recommended order dismissing Count II of the case if she failed to comply with the order.

11. Complainant has not complied with the terms of the January 4, 2002 Order as of the date of this Order.

Conclusions of Law

1. A complaint may be dismissed when a party engages in conduct which unreasonably delays or protracts proceedings. See, 56 Ill. Admin Code, Ch. XI, §5300.750(e).

2. The complainant has unreasonably delayed proceedings by failing to tender sworn responses to outstanding discovery requests as directed by several Commission Orders.

3. The appropriate sanction for Complainant's failure to advance her case is dismissal of both Counts of the amended Complaint as well as the underlying Charge of Discrimination.

Determination

The amended Complaint and the underlying Charge of Discrimination should be dismissed with prejudice due to Complainant's failure to advance her case and for her failure to adhere to several Commission orders directing her to comply with outstanding discovery requests.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a complaint be dismissed where a complainant engages in conduct which unreasonably delays or protracts proceedings. (See, 56 Ill. Admin Code, Ch. XI, §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, **Ramirez and Wesco Spring Company**, 40 Ill. HRC Rep. 266 (1988) and **Hariford and Mitsubishi Motor Manufacturing of America**, ____ Ill HRC Rep. ____ (1998SF0357, August 16, 2000).

Here, the circumstances also indicate that Complainant's inaction served to unreasonably delay these proceedings. Specifically, Complainant was directed on three occasions (i.e., April 6, 2001, May 23, 2001, and January 4, 2002) to comply with outstanding discovery requests. Moreover, Complainant was cautioned on two different occasions (i.e., May 23, 2001 and January 4, 2002) that she risked the entry of an order recommending that her case be dismissed for failure to comply with Commission Orders. Additionally, Complainant has not responded to Respondent's current motion to dismiss or sought an extension of time to comply with outstanding discovery requests. This failure, coupled with Complainant's apparent refusal to comply with Commission orders, render it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Foster and Old Republic General Services Inc.**, ____ Ill. HRC Rep. ____ (1990CA2290, November 8, 1993).

Recommendation

Accordingly, I recommend that the amended Complaint and the underlying Charge of Discrimination be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 19th DAY OF APRIL, 2002.